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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DEC 27 1977

H. STUART GUNNINGHAM, CLERK
UNITED STATES DISTRICT COURT

-----X
THE MAGNAVOX COMPANY and
SANDERS ASSOCIATES, INC.,

Plaintiffs,

vs.

APF ELECTRONICS, INC., et al,

Defendants.
-----X

77 C 3159

DEFENDANT APF'S ANSWERS TO PLAINTIFFS' INTERROGATORY ON VENUE

NOW COMES THE DEFENDANT, APF ELECTRONICS, INC.,
hereinafter "APF", and makes the following answers to the
Interrogatory propounded by Plaintiffs:

INTERROGATORY

1.(A)(i) Does Defendant assert for the purposes of
its motion to dismiss or transfer for lack of venue as to it
that venue in this action is improper as to it under 28 U.S.C.
§1400(b) for any reason or reasons other than that it does not
"reside" in the Northern District of Illinois (hereinafter "this
District") and that it does not have "a regular and established
place of business" within this District?

ANSWER: No.

1.(A)(ii) If the response to part (A)(i) of this interrogatory is anything other than an unequivocal negative, fully state each and every other such reason or reasons.

ANSWER: See part (A)(i) of this interrogatory.

1.(A)(iii) If the response to part (A)(i) of this interrogatory is anything other than an unequivocal negative:

(A)(iii)(a) identify by defendant's model or type number or designation each and every television gaming apparatus made, used, sold, or offered for sale by defendant during the five year period immediately preceding the filing of this action;

(A)(iii)(b) for each and every model or type of television gaming apparatus identified in response to part (A)(iii)(a) of this interrogatory, describe in detail each and every game which can be played using that apparatus;

(A)(iii)(c) for each and every model or type of television gaming apparatus identified in response to part (A)(iii)(a) of this interrogatory, state separately the number of such apparatus sold in this District by defendant during the five year period immediately preceding the filing of this action;

(A)(iii)(d) for each and every model or type of television gaming apparatus identified in response to part (A)(iii)(a) of this interrogatory, state separately the number of such apparatus shipped by defendant to locations within this District during the five year period immediately preceding the filing of this action, identify each party to whom defendant shipped such apparatus by stating its name and address, and state the reason defendant shipped such apparatus to each such party;

(A)(iii)(e) for each and every model or type of television gaming apparatus identified in response to part (A)(iii)(a) of this interrogatory, state separately the number of such apparatus shipped by defendant upon orders originated in this District during the five year period immediately

preceding the filing of this action, identify each party to whom defendant shipped such apparatus, and state the reason defendant shipped such apparatus to each such party.

ANSWER: See part 1.(A)(ii) of this interrogatory.

1.(B)(i) Identify each and every corporation or other entity of which defendant directly or indirectly owned more than 25% at any time during the five year period immediately preceding the filing of this action and state defendant's ownership interest therein during that five year period.

ANSWER: During the five year period immediately preceding this action, APF owned at least 25% interest in two companies, both located in Hong Kong. The identity of these entities is confidential and proprietary business information and APF therefore objects to Plaintiff's request to identify same.

1.(B)(ii) Identify each and every person, corporation, or other entity which owned directly or indirectly more than 25% of defendant at any time during the five year period immediately preceding the filing of this action and state for each such person, corporation, or other entity its ownership interest in defendant during that five year period.

ANSWER: None.

1.(B)(iii) Identify each parcel of land or other real property located in this District owned, rented, or leased in whole or in part by defendant at any time during the five year period immediately preceding the filing of this action.

ANSWER: APF leased space at 230 South Evergreen Street, Bensenville, Illinois until the end of June, 1975.

1.(B)(iv) Identify each parcel of land or other real property located in this District owned, rented, or leased in whole or in part by any person, corporation, or other entity identified in response to parts (B)(i) and (B)(ii) of this interrogatory at any time during the five year period immediately preceding the filing of this action.

ANSWER: None.

1.(B)(v) As to each parcel of land or other real property identified in response to part (B)(iii) of this interrogatory, state fully and completely the interest of defendant therein during that five year period.

ANSWER: APF terminated its lease of the Bensenville, Illinois property identified in part 1.(B)(iii) in June, 1975. The space at 230 Evergreen Place, Bensenville, Illinois was leased for the benefit of an independent repair company.

1.(B)(vi) As to each parcel of land or other real property identified in response to part (B)(iv) of this interrogatory, state fully and completely the interest of each person, corporation, or other entity identified in response to parts (B)(i) and (B)(ii) of this interrogatory therein during that five year period.

ANSWER: None.

1.(B)(vii) Identify each location within this District where defendant has conducted business at any time during the five year period immediately preceding the filing of this action, state the time period during which defendant conducted business at that location, and state the nature of the business conducted by defendant at that location.

ANSWER: APF objects to the use of the term "conducted business" in this interrogatory directed to venue as

being vague and indefinite. The term "conducted business" is overly broad and would require a listing of every telephone call, letter, meeting and casual occurrence, etc., within the last five years with respect to every product of APF by any person or persons in the employ of APF and, hence, would place an undue burden on APF to answer same. However, to the extent that this interrogatory relates to venue and the term "conducted business" refers to the maintaining of a "regular and established place of business", as same is defined in 28 U.S.C. §1400(b), APF has not ever maintained a regular and established place of business in the Northern District of Illinois.

1.(B)(viii) As to each person, corporation, or other entity identified in response to parts (B)(i) and (B)(ii) of this interrogatory identify each location within this District where that person, corporation, or other entity conducted business at any time during the five year period immediately preceding the filing of this action, state the time period during which that person, corporation, or other entity conducted business at that location and state the nature of the business conducted by that person, corporation, or other entity at that location.

ANSWER: None.

1.(C) Does defendant maintain a telephone, post office box, mailing address, or bank account within this District? If so, state the location of each such telephone, post office box, mailing address, or bank account and the reason or reasons for which defendant maintains it.

ANSWER: None.

1.(D) Has defendant within the five year period immediately preceding the filing of this action maintained within this District any facility for the service or repair of products manufactured, used, or sold by it? If so, state the location of each such facility, the nature of the activities carried out by defendant at that facility, and the period of time over which that facility was maintained by defendant.

ANSWER: Defendant has not, within the five year period immediately preceding the filing of this action, maintained within the Northern District of Illinois any facility for the service or repair of products manufactured, used or sold by it. However, APF did lease space at 230 South Evergreen Street, Bensenville, Illinois for the benefit of Montross Service, an independent repair company. Since June, 1975, no facility for the service or repair of products manufactured, used or sold by APF, has been located in the State of Illinois.

1.(E) Has any officer, director, or employee of defendant come to this District within the five year period preceding the filing of this action to conduct any business on behalf of defendant? If so, identify each such officer, director, or employee; as to each such officer, director, or employee, state the period or periods during which he was within this District to conduct any business on behalf of defendant; and as to each such officer, director or employee of defendant state the nature of the business he conducted for defendant on each occasion that he was within this District.

ANSWER: APF objects to the use of the term "conducts business" in this interrogatory directed to venue as being vague and indefinite. The term "conducted business" is

overly broad and would require a listing of every telephone call, letter, meeting and casual occurrence, etc., within the last five years with respect to every product of APF by any person or persons in the employ of APF and, hence, would place an undue burden on APF to answer same. However, to the extent that this interrogatory relates to venue and the term "conducted business" refers to the maintaining of a "regular and established place of business", as same is defined in 28 U.S.C. §1400(b), APF has not ever maintained a regular and established place of business in the Northern District of Illinois.

1.(F) Has defendant exhibited or participated in any trade shows, including, but not limited to, any Consumer Electronics Show, in this District within the five year period preceding the filing of this action? If so, identify each such trade show; state the dates thereof; state the nature of defendant's participation in that trade show; as to each such trade show at which defendant exhibited any products manufactured, used or sold by it, identify by defendant's type or model number or designation and a statement of the type of product each products which was exhibited at that show; as to each such product exhibited at each such trade show, state by number of units and number of dollars the volume of that product which was sold at the show by defendant and the volume of that product for which orders were taken at that show by defendant.

ANSWER: APF was an exhibitor at the following Winter and Summer Consumer Electronic Shows held in the summer at McCormack Place, Chicago, Illinois and in the winter at the Conrad Hilton Hotel, Chicago, Illinois:

<u>DATE</u>	<u>PRODUCTS EXHIBITED FOR SALE</u>
June 10-13, 1973	Limited only to electronic calculators and hi-fi stereo equipment (model no's not available)
January 10-13, 1974	Limited only to electronic calculators and hi-fi stereo equipment (model no's not available)
June 9-12, 1974	Limited only to electronic calculators and hi-fi stereo equipment (model no's not available)
January 5-8, 1975	Limited to electronic calculators only (model no's MARK 40,26,25,6,30,11,50,20)
June 1-4, 1975	Limited to electronic calculators only (model no's MARK 40,26,27,25,30,50,55)
January 7-9, 1976	Limited to electronic calculators only (model no's MARK 60,40,26,28,27,25,31,50,55,21,22,23)
June 13-16, 1976	Limited to electronic calculators (model no's MARK 40,70,32,52,75,31,50,21,22,23,55,90) and TV games (model no. 401)
January 13-16, 1977	Limited to electronic calculators (model no's MARK 40,70,32,52,21,23,55,75,31,51,61) and TV games (model no. 401)
June 5-8, 1977	Limited to electronic calculators (model no's MARK 43,42,73,72,34,200-A,210-A,230,250,61,21,77,58,55,56,90,303,501,2000,2001,2500,1500) and TV games (model no's 401,402,405,442,444)

Although TV games were exhibited at each trade show, orders for TV games written during each trade show at which APF games were exhibited were subject to acceptance at APF's offices in New York, New York.

APF objects to the request for the number of units and dollar volume of any products for which orders were taken at any show or which resulted in sales from the show, as being confidential business information.

1.(G) Has defendant entered into any indemnity agreements, either written or oral, with any other defendant in this action? If so, identify each such other defendant with whom defendant has entered into an indemnity agreement and state the exact terms of the indemnity agreement or agreement with each such other defendant.

ANSWER: APF has agreed to indemnify Jewel Company, Inc. and Bennett Brothers for any legal liability incurred as a result of sales of its TV games. APF objects to Plaintiffs' request that the exact terms of the indemnity agreement be stated and deems this to be confidential business information.

1.(H) Has defendant entered into any agreement, either written or oral, with any other defendant in this action concerning or relating to the defense of this action or the sharing or apportionment of the expenses incurred in the defense of this action? If so, identify each such other defendant with whom defendant has entered into such an agreement and state the exact terms of the agreement or agreements with each such other defendant.

ANSWER: None.

1.(I) Has defendant sold any products to any other defendant in this action within the five year period immediately preceding the filing of this action? If so, for each other defendant to which defendant has sold any such product, identify by defendant's type or model number or designation and a statement of the type of product all such products sold to that other defendant and state by number of units and number of dollars the volume of each such product sold to the defendant within the five year period immediately preceding the filing of this action.

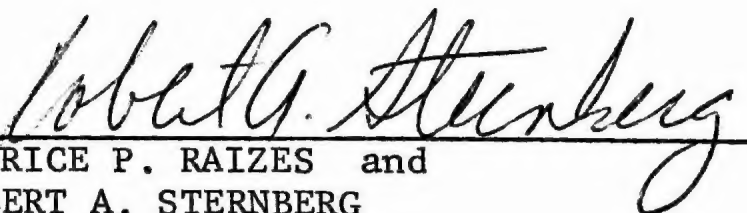
ANSWER: APF, through an independent sales agent,

Hirsch Sales Co., has sold products to Jewel Company, Inc. and Bennett Brothers. APF objects to the remainder of the question as requiring the disclosure of confidential business information.

1.(J) Has any product manufactured, used, or sold by defendant been sold by an intermediary such as a sales representative, distributor, or jobber to any other defendant in this action within the five year period immediately preceding the filing of this action? If so, for each other defendant to which such products have been sold, identify by defendant's type or model number or designation and a statement of the type of product all such products sold to that other defendant and state by number of units and number of dollars the volume of each such product sold to that defendant within the five year period immediately preceding the filing of this action.

ANSWER: See part 1.(I) of this interrogatory.

The following signature pertains to the objections to the foregoing interrogatories.


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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, MARTIN LIPPER, being duly sworn, say: That I am the Treasurer of APF ELECTRONICS, INC., a Defendant in the above entitled action, and that I have affixed my signature to the above Answers to MAGNAVOX's INTERROGATORY ON VENUE TO DEFENDANTS APF on behalf of Defendant APF ELECTRONICS, INC.; that I have read said Answers and know the contents thereof; that I am informed and believe that said Answers are true.



MARTIN LIPPER

Subscribed and sworn to before me
this 23 day of December, 1977.



Notary Public

ANTONIA T. ANGELO
Notary Public, State of New York
No. 31-5085145
Qualified in New York County
Commission Expires March 30, 1978

CERTIFICATE OF SERVICE

I, ROBERT A. STERNBERG, certify that the foregoing Defendant APF's Answers to Plaintiffs' Interrogatory on Venue has been served in accordance with Rule 5b of the Federal Rules of Civil Procedure on all counsel of record as shown on Exhibit "A" attached hereto.

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